

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 ANTHONY HAWKINS,

Case No. 3:18-cv-00287-RCJ-CLB

4 Plaintiff,

ORDER

5 v.

6 DAN WATTS et al.,

7 Defendants.

8  
9 This action began with a pro se civil rights complaint filed pursuant to 42 U.S.C. §  
10 1983 by a state prisoner. Plaintiff has submitted an application to proceed *in forma*  
11 *pauperis*. (ECF No. 1). Based on the financial information provided, the Court finds that  
12 Plaintiff is unable to prepay the full filing fee in this matter.

13 The Court entered a screening order on October 7, 2019. (ECF No. 6). The  
14 screening order imposed a 90-day stay and the Court entered a subsequent order in  
15 which the parties were assigned to mediation by a court-appointed mediator. (ECF Nos.  
16 6, 13). The Office of the Attorney General has filed a status report indicating that  
17 settlement has not been reached and informing the Court of its intent to proceed with this  
18 action. (ECF No. 16). The county defendants choose not to participate in the mediation.

19 For the foregoing reasons, **IT IS ORDERED** that:

20 1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is  
21 **GRANTED**. Plaintiff shall not be required to pay an initial installment of the filing fee. In  
22 the event that this action is dismissed, the full filing fee must still be paid pursuant to 28  
23 U.S.C. § 1915(b)(2).

24 2. The movant herein is permitted to maintain this action to conclusion without  
25 the necessity of prepayment of any additional fees or costs or the giving of security  
26 therefor. This order granting leave to proceed *in forma pauperis* shall not extend to the  
27 issuance and/or service of subpoenas at government expense.  
28

1           3. Pursuant to 28 U.S.C. § 1915(b)(2), the Nevada Department of Corrections  
2 shall pay to the Clerk of the United States District Court, District of Nevada, 20% of the  
3 preceding month's deposits to Plaintiff's account (**Anthony Hawkins, #91607**), in the  
4 months that the account exceeds \$10.00, until the full \$350.00 filing fee has been paid  
5 for this action. The Clerk of the Court shall **SEND** a copy of this order to the Finance  
6 Division of the Clerk's Office. The Clerk of the Court shall also **SEND** a copy of this order  
7 to the attention of the Chief of Inmate Services for the Nevada Department of Corrections,  
8 P.O. Box 7011, Carson City, NV 89702.

9           **IT IS FURTHER ORDERED that as to Defendants Deal, Byrne, Gittere, Filson,**  
10 **Sandoval, Miller, and Dzurenda ("NDOC Defendants"):**

11           1. The Clerk of the Court shall electronically **SERVE** a copy of this order and  
12 a copy of Plaintiff's first amended complaint (ECF No. 5) on the Office of the Attorney  
13 General of the State of Nevada by adding the Attorney General of the State of Nevada to  
14 the docket sheet. This does not indicate acceptance of service.

15           2. Service must be perfected within ninety (90) days from the date of this order  
16 pursuant to Fed. R. Civ. P. 4(m).

17           3. Subject to the findings of the screening order (ECF No. 6), within twenty-  
18 one (21) days of the date of entry of this order, the Attorney General's Office shall file a  
19 notice advising the Court and Plaintiff of: (a) the names of the defendants for whom it  
20 accepts service; (b) the names of the defendants for whom it does not accept service,  
21 and (c) the names of the defendants for whom it is filing the last-known-address  
22 information under seal. As to any of the named defendants for whom the Attorney  
23 General's Office cannot accept service, the Office shall file, under seal, but shall not serve  
24 the inmate Plaintiff the last known address(es) of those defendant(s) for whom it has such  
25 information. If the last known address of the defendant(s) is a post office box, the Attorney  
26 General's Office shall attempt to obtain and provide the last known physical address(es).

27           4. If service cannot be accepted for any of the named defendant(s), Plaintiff  
28 shall file a motion identifying the unserved defendant(s), requesting issuance of a

1 summons, and specifying a full name and address for the defendant(s). For the  
2 defendant(s) as to which the Attorney General has not provided last-known-address  
3 information, Plaintiff shall provide the full name and address for the defendant(s).

4 5. If the Attorney General accepts service of process for any named  
5 defendant(s), such defendant(s) shall file and serve an answer or other response to the  
6 first amended complaint (ECF No. 5) within sixty (60) days from the date of this order.

7 6. Plaintiff shall serve upon defendant(s) or, if an appearance has been  
8 entered by counsel, upon their attorney(s), a copy of every pleading, motion or other  
9 document submitted for consideration by the Court. Plaintiff shall include with the original  
10 document submitted for filing a certificate stating the date that a true and correct copy of  
11 the document was mailed or electronically filed to the defendants or counsel for the  
12 defendants. If counsel has entered a notice of appearance, Plaintiff shall direct service  
13 to the individual attorney named in the notice of appearance, at the physical or electronic  
14 address stated therein. The Court may disregard any document received by a district  
15 judge or magistrate judge which has not been filed with the Clerk, and any document  
16 received by a district judge, magistrate judge, or the Clerk which fails to include a  
17 certificate showing proper service.

18 7. This case is no longer stayed.

19 **IT IS FURTHER ORDERED that as to Defendants Mingo, Garcia, and Watts**  
20 **(“County Jail Defendants”):**


21 1. The Clerk of Court **will issue** summonses for Defendants Nathan Mingo,  
22 Christopher Garcia, and Dan Watts, **and deliver the same**, to the U.S. Marshal for  
23 service. The Clerk also **will send** sufficient copies of the first amended complaint (ECF  
24 No. 5) and this order to the U.S. Marshal for service on Defendant(s).

25 2. The Clerk **will send** to Plaintiff **three (3)** USM-285 forms. Plaintiff will have  
26 **thirty (30) days** within which to furnish to the U.S. Marshal the required USM-285 forms  
27 with relevant information as to each Defendant on each form.  
28

3. Within **twenty (20) days** after receiving from the U.S. Marshal a copy of the USM-285 forms showing whether service has been accomplished, Plaintiff must file a notice with the Court identifying which Defendant(s) were served and which were not served, if any. If Plaintiff wishes to have service again attempted on an unserved Defendant(s), then a motion must be filed with the Court identifying the unserved Defendant(s) and specifying a more detailed name and/or address for said Defendant(s), or whether some other manner of service should be attempted.

4. Plaintiff will serve upon Defendants or, if appearance has been entered by counsel, upon the attorney(s), a copy of every pleading, motion or other document submitted for consideration by the Court. Plaintiff will include with the original paper submitted for filing a certificate stating the date that a true and correct copy of the document was mailed to the Defendants or counsel for the Defendants. The Court may disregard any paper received by a district judge or magistrate judge which has not been filed with the clerk, and any paper received by a district judge, magistrate judge or the clerk which fails to include a certificate of service.

DATED: February 19, 2020.

  
UNITED STATES MAGISTRATE JUDGE